

**BEST AVAILABLE COPY****PATENT****REMARKS**

Claims 1-26 are pending in the present application. Applicants amend claim 12 and respectfully respond to this Office Action.

***Claim Rejections – 35 USC § 102***

Claims 12 and 14-15 are rejected under 35 U.S.C. 102(a) as being anticipated by Kumar (U.S. Patent 6,757,270).

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” M.P.E.P. § 2131 (July 1998).

Applicants respectfully submit that Claims 12 and 14-15 as amended are novel and patentable over Kumar. Applicants amend claim 12 to include the feature “determining whether the new base station is associated with a new network server.” This feature is neither taught nor recited in Kumar. Although Kumar discloses a high level description of synchronization, there is no teaching of this specific feature. As discussed below this combination is also nonobvious over Kumar combined with Hutcheson (U.S. 2003/0032409). Therefore, claims 12 and all dependent claims including 14-15 are novel and patentable over Kumar and in a position for allowance.

***Claim Rejections – 35 USC § 103***

Claims 1, 3-4, 9, 16-18, 19, 21-23, and 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kumar in view of Hutcheson. Claims 2, 20, and 24 are rejected as being unpatentable over Kumar in view of Hutcheson in further view of Rasanen (U.S. Patent 5,920,545). Claims 5-7 are rejected as being unpatentable over Kumar in view of Hutcheson in further view of Ludwig (U.S. Patent 6,487,218). Claim 8 is rejected over Kumar in view of Hutcheson in further view of Kalliokulju (U.S. Patent 6,385,451). Finally, claim 10 is rejected over Kumar in view of Hutcheson in further view of Basilier (U.S. Patent 6,728,536).

To establish a *prima facie* case of obviousness, the prior art reference (or references when combined) must teach each or suggest all the claim limitations. “The teaching or suggestion to

Attorney Docket No.: 000256

Customer No.: 23696

## PATENT

make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in Applicants' disclosure". In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

All of Applicants' claims are patentable over Kumar combined with Hutcheson, as well as Kumar and Hutcheson combined with any of the above cited art. Applicants focus the discussion on Kumar and Hutcheson as these are the common art in all of the above rejections. Applicants show that Kumar and Hutcheson along with the above cited art do not result in a *prima facie* case of obviousness.

As stated by the Examiner, "determining whether the new base station is associated with a new network server, and resynching if there is a new network server, is missing from Kumar." Please note that Hutcheson discloses a backup server in a cluster configuration. Please see paragraph 175. Because the backup server is in a cluster configuration there is no motivation for "determining whether the new base station is associated with a new network server" which is included in all of Applicants' claims. That is there is no motivation to combine the teaching of clustered standby servers in Hutcheson with the resynchronization of Kumar because clustered servers would not be associated with different base stations.

All of Applicants claims are therefore patentable over Kumar and Hutcheson, as well as Kumar and Hutcheson combined with any other art.

## PATENT

## CONCLUSION

In light of the amendments contained herein, Applicants submit that the application is in condition for allowance, for which early action is requested.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

Dated: October 31, 2005

By: 

Rupit Patel, Reg. No. 53,441  
(858) 651-7435

QUALCOMM Incorporated  
5775 Morehouse Drive  
San Diego, California 92121  
Telephone: (858) 658-5787  
Facsimile: (858) 658-2502